

---

---

# HOUSE BILL No. 1102

---

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 3-10-4; IC 3-11; IC 3-12-5-7.

**Synopsis:** Electoral college. Provides for allocation of Indiana's presidential electors based on each presidential candidate's proportion of the popular vote in Indiana. Repeals a statute that requires voting systems to contain a statement that voting for candidates for President and Vice President of the United States is considered a vote for the candidates' slate of electors.

**Effective:** July 1, 2005.

---

---

### Moses

---

---

January 6, 2005, read first time and referred to Committee on Elections and Apportionment.

---

---

C  
o  
p  
y



First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## HOUSE BILL No. 1102

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1       SECTION 1. IC 3-10-4-4 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2005]: Sec. 4. Each vote cast or registered for  
3 the nominees for President and Vice President of the United States of  
4 a political party, group of petitioners, or a write-in candidate for  
5 President or Vice President of the United States ~~is a vote cast or~~  
6 ~~registered for all of the candidates for presidential electors of the party,~~  
7 ~~group, or candidate and shall be so counted. These votes shall be~~  
8 ~~counted, canvassed, and certified in the same manner as the votes for~~  
9 ~~candidates for other offices.~~  
10       SECTION 2. IC 3-10-4-5 IS AMENDED TO READ AS FOLLOWS  
11 [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) This subsection applies to a  
12 major political party and to a political party subject to IC 3-8-4-10. The  
13 state chairman of each political party shall certify to the election  
14 division the names of the nominees of the party for President and Vice  
15 President of the United States and the state of which each nominee is  
16 a resident.  
17       (b) If candidates for presidential electors are nominated by



C  
o  
p  
y

petitioners instead of by a convention of a major political party or a party subject to IC 3-8-4-10, the petitioners shall certify with the list of names of electors **the following:**

(1) The names of their nominees for President and Vice President of the United States.

(2) The state of which each nominee is a resident. ~~and~~

(3) The name of the political party of the nominees, or that the nominees are an independent ticket.

(c) This subsection applies to a political party described in subsection (a) and to candidates nominated by petitioners under subsection (b). The names of:

(1) all candidates for presidential electors; and

(2) all nominees for President and Vice President of the United States;

shall be certified to the election division not later than noon on the second Tuesday in September before the general election. The election division shall certify to each county election board not later than noon on the next following Thursday in September before the general election the names of the nominees for President and Vice President of the United States certified to the election division under this subsection. **A certification of the names of candidates for presidential electors must designate the candidates in the order that the candidates are to be elected after the number of electors to which the presidential and vice presidential candidates are entitled is determined under section 6.5 of this chapter.**

(d) The names of all candidates for presidential electors for a write-in candidate shall be included on the declaration for candidacy filed by a write-in candidate for the office of President or Vice President of the United States filed under IC 3-8-2. **The declaration of candidacy for a write-in candidate for President of the United States must designate the order that the candidates for presidential electors are to be elected after the number of electors to which the presidential and vice presidential candidates are entitled is determined under section 6.5 of this chapter.**

SECTION 3. IC 3-10-4-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 6.5. (a) After receiving the election division's tabulation of the votes for President of the United States under IC 3-12-5-7, the secretary of state shall determine the number of electoral votes to which each candidate for President of the United States is entitled as follows:**

**STEP ONE: Determine the total number of votes cast in**

C  
o  
p  
y



Indiana for the office of President of the United States.

**STEP TWO: Determine the total number of votes cast for the candidate.**

**STEP THREE: Divide the number determined in STEP TWO by the number determined in STEP ONE.**

**STEP FOUR: Round the number determined in STEP THREE to the nearest hundredth.**

**STEP FIVE: Multiply the number determined in STEP FOUR by the number of electoral votes allocated to Indiana.**

**STEP SIX: Round the number determined in STEP FIVE up to the nearest whole number.**

**(b) The secretary of state shall determine the number of electoral votes to which the candidates for President of the United States are entitled:**

**(1) beginning with the candidate for President of the United States who receives the greatest number of popular votes in Indiana;**

**(2) continuing with each candidate for President of the United States in the order that the candidates received popular votes in Indiana; and**

**(3) ending with the candidate for President of the United States who receives the fewest number of popular votes in Indiana.**

**(c) If at any stage in the allocation of electoral votes under subsection (b) the number of electoral votes remaining to be allocated is less than the number of electoral votes that subsection (b) provides that a candidate for President of the United States should receive:**

**(1) that candidate is entitled to receive only the number of electoral votes remaining to be allocated; and**

**(2) all other candidates who received fewer popular votes in Indiana are not entitled to an electoral vote.**

**(d) If after allocating electoral votes to all candidates for President of the United States under subsection (b) electoral votes remain to be allocated, the candidate for President of the United States who received the greatest number of popular votes in Indiana for President of the United States is entitled to receive the remaining unallocated electoral votes.**

**(e) After determining the number of electoral votes to which each candidate for President of the United States is entitled, the secretary of state shall certify to the governor for each candidate for President of the United States the names of the electors for that**

**C  
o  
p  
y**



candidate:

(1) equal in number to the number of electoral votes to which the candidate is entitled under this section; and

(2) in the order designated under section 5 of this chapter.

(f) Electors certified for a candidate for President of the United States under this section are considered the electors for that candidate's vice presidential candidate.

SECTION 4. IC 3-10-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) The presidential electors who are elected at a general election under this chapter shall assemble in the chamber of the Indiana house of representatives on the first Monday after the second Wednesday in December as provided by 3 U.S.C. 7, or on another day fixed by the Congress of the United States, at 10 a.m. to elect the President and Vice President of the United States.

(b) The secretary of state, or an individual designated by the secretary, shall preside at this meeting. The election division shall assist the secretary in conducting the election and in certifying and transmitting the results in accordance with federal law.

(c) As provided by 3 U.S.C. 6, the governor shall deliver to the electors present six (6) duplicate originals of the certificate of ascertainment of appointment of the electors mailed to the Archivist of the United States.

SECTION 5. IC 3-11-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) The name or title of the political party or independent ticket described in section 6 of this chapter shall be placed at the top of the ballot. The device of the political party or independent ticket shall be placed immediately under the name of the political party or independent ticket. The instructions for voting a straight party ticket shall be placed to the right of the device. ~~or~~ If the ballot is part of a direct recording electronic voting system,

(1) the instructions for voting a straight party ticket and

(2) the statement concerning presidential electors required under

~~IC 3-10-4-3;~~

may be posted in any location within the voting booth that permits the voter to easily read the instructions instead of on the ballot face.

(b) The instructions for voting a straight party ticket must conform as nearly as possible to the following: "To vote a straight (insert political party name) ticket for all (political party name) candidates on this ballot, make a voting mark on or in this circle and do not make any other marks on this ballot. If you wish to vote for a candidate seeking

C  
o  
p  
y



a nonpartisan office or on a public question, you must make another voting mark on the appropriate place on this ballot."

(c) If the ballot contains an independent ticket described in section 6 of this chapter and at least one (1) other independent candidate, the ballot must also contain a statement that reads substantially as follows: "A vote cast for an independent ticket will only be counted for the candidates for President and Vice President or governor and lieutenant governor comprising that independent ticket. This vote will NOT be counted for any OTHER independent candidate appearing on the ballot."

(d) The ballot must also contain a statement that reads substantially as follows: "A write-in vote will NOT be counted unless the vote is for a DECLARED write-in candidate. To vote for a write-in candidate, you must make a voting mark on or in the square to the left of the name you have written in or your vote will not be counted."

(e) Except for variations in ballot arrangement permitted for voting machines under IC 3-11-12-7, ballot card voting systems under IC 3-11-13-11, or electronic voting systems under IC 3-11-14-7, the list of candidates of the political party shall be placed immediately under the instructions for voting a straight party ticket. The names of the candidates shall be placed three-fourths (3/4) of an inch apart from center to center of the name. The name of each candidate must have, immediately on its left, a square three-eighths (3/8) of an inch on each side.

(f) The election division or the circuit court clerk may authorize the printing of ballots containing a ballot variation code to ensure that the proper version of a ballot is used within a precinct.

SECTION 6. IC 3-11-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) A voting machine must permit a voter to vote:

(1) except at a primary election, for:

(A) all the candidates of one (1) political party;

(B) one (1) or more candidates of each political party;

(C) one (1) or more candidates nominated by petition under IC 3-8-6; or

(D) a write-in candidate, unless the procedures in subsection (b) are followed;

(2) for as many candidates for an office as the voter may vote for, but no more; **and**

(3) for or against a public question on which the voter may vote, but no other. **and**

~~(4) for all the candidates for presidential electors of a political~~

C  
o  
p  
y



party or an independent ticket at one ~~(1)~~ time.

(b) Except as provided in subsection (c), in a precinct using voting machines that do not permit write-in votes, the precinct election board shall provide a paper ballot to a voter who requests to cast a write-in vote. After such a request, a poll clerk, an assistant poll clerk, or a member of the precinct election board shall:

- (1) require the voter to sign the poll list; and
- (2) inform the voter of the procedure that must be followed to cast a write-in vote.

(c) Paper ballots for write-in voting for an office are not required if there are no declared write-in candidates for that office. However, procedures must be implemented to permit write-in voting for candidates for federal offices.

SECTION 7. IC 3-11-7.5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. An electronic voting system must permit a voter to vote:

- (1) except at a primary election, for all the candidates of one (1) political party, for one (1) or more candidates of each political party, or for one (1) or more candidates nominated by petition;
- (2) for as many candidates for an office as the voter may vote for, but no more; **and**
- (3) for or against a public question on which the voter may vote, but no other. **and**
- ~~(4) for all the candidates for presidential electors of a political party or an independent ticket at one (1) time.~~

SECTION 8. IC 3-12-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. **(a)** Upon receipt of the certified statements from the circuit court clerks under section 6 of this chapter and not later than noon of the last Tuesday in November, the election division shall tabulate the number of votes cast for each candidate for:

- ~~(1) presidential electors;~~
- (1) the President of the United States;**
- (2) a state office other than governor and lieutenant governor; and
- (3) a local office for which a declaration of candidacy must be filed with the election division under IC 3-8-2.

**(b)** Immediately following the election division's tabulation, the secretary of state shall certify to the governor the **following**:

- (1) The candidate receiving the highest number of votes for each office.**
- (2) The votes for each of the other candidates for President and Vice President of the United States.**
- (3) The names of the electors for President of the United**

C  
o  
p  
y



1           **States determined under IC 3-10-4-6.5.**  
2           SECTION 9. IC 3-10-4-3 IS REPEALED [EFFECTIVE JULY 1,  
3           2005].

**c  
o  
p  
y**

